

Introduced by Legislators Lindsay, Kennedy, Cooper and Nowick

**RESOLUTION NO. 827 -2011, ADOPTING LOCAL LAW  
NO. 55 -2011, A CHARTER LAW TO UPDATE AND  
STRENGTHEN ETHICS AND DISCLOSURE RULES**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on August 2, 2011, a proposed local law entitled, "**A CHARTER LAW TO UPDATE AND STRENGTHEN ETHICS AND DISCLOSURE RULES**;" now, therefore be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO. 55 -2011, SUFFOLK COUNTY, NEW YORK**

**A CHARTER LAW TO UPDATE AND STRENGTHEN ETHICS AND  
DISCLOSURE RULES**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF  
SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature hereby finds and determines that an effective ethics law has three essential components: a comprehensive and understandable code of ethics; common sense financial disclosure requirements; and an effective and independent board to administer the ethics and disclosure requirements.

This Legislature further finds that the County's Ethics Code has not been meaningfully updated in over 20 years. The Code of Ethics needs to be updated to provide clear and coherent guidance to County officials and employees so they can avoid conflicts of interest.

This Legislature finds that the County's financial disclosure law also needs to be updated to better elicit information which may reveal potential, significant violations of the ethics code.

This Legislature further finds that the County's ethics and financial disclosure rules should be consolidated in one section of the County Code so officials and employees can access this important information more easily.

Therefore, the purpose of this law is to promote integrity and public confidence in County Government by enacting a revised code of ethics and financial disclosure law that is clear, coherent and comprehensive.

**Section 2. Amendments.**

Chapter 61 of the SUFFOLK COUNTY CODE is hereby repealed in its entirety. A new Chapter 61 of the SUFFOLK COUNTY CODE is hereby enacted to read as follows:

**CHAPTER 61, CODE OF ETHICS AND FINANCIAL DISCLOSURE**  
**Article I, Code of Ethics**

## **§ 61-1. Definitions.**

When used in this chapter, the following terms shall have the meanings indicated:

"Agency" means a department, division, bureau, board, commission, advisory committee, office or other agency of County Government.

"Agency served by a public official" means a) in the case of a County employee, the agency employing such employee, or b) in the case of other public servants, the agency which exercises control of the public servant or the agency to whom the public servant reports.

"Appear" means to make any communication, for compensation, other than those involving ministerial matters.

A person or firm "associated" with a public servant includes a spouse, domestic partner, child, parent or sibling; a person with whom the public servant has a business or other financial interest; and each firm in which the public servant has an interest.

"Board" means the Board of Ethics.

"Business dealings with the County" means any transaction with the County involving the sale, purchase, rental, disposition or exchange of any goods, services, or property, or any license, grant or benefit, and any performance with respect to any of the foregoing, but shall not include any transaction involving the public servant's residence or any ministerial matter.

"County" means the County of Suffolk or any agency of the County of Suffolk.

"County employee" means all elected officials and public servants who are employed by the County and compensated for their services but shall not include members of occupational licensing boards.

"Elected Official" means a person holding office as County Executive, District Attorney, Clerk, Comptroller, Treasurer, Sheriff or member of the County Legislature.

"Firm" means a sole proprietorship, joint venture, partnership, corporation or any other form of business enterprise.

"Interest" means a financial interest in a firm or a position with a firm held by a public servant, the public servant's spouse, domestic partner or unemancipated child.

"Lobbyist" means a person or firm registered as a lobbyist with the County of Suffolk pursuant to Chapter 348 of the Suffolk County Code or any successor statute thereto.

"Member" means a member of the Board of Ethics.

"Ministerial matter" means an administrative act, including the issuance of a license, permit or other permission of the County, which is carried out in a prescribed manner and which does not involve substantial personal discretion.

"Ownership interest" means an interest in a firm held by a public servant, or the public servant's spouse, domestic partner or unemancipated child, which exceeds five percent (5%) of the firm or an investment of twenty-five thousand dollars in cash or other form of commitment, whichever

is less, and any lesser interest in a firm when the public servant, or the public servants' spouse, domestic partner or unemancipated child is an officer of the firm or exercises managerial control or responsibility regarding such firm, but shall not include interests held in any pension plan, deferred compensation plan or mutual fund, the investments of which are not controlled by the public servant, the public servant's spouse, domestic partner or unemancipated child.

"Particular matter" means any case, proceeding, application, request for a ruling or benefit, determination, contract, investigation, charge, accusation, arrest or similar action which involves a specific party or parties.

"Political Party Officer" means a chairperson of any County political party committee elected pursuant to § 2-112 of New York Election Law or the chairperson of any duly constituted Town political party committee.

"Position" means a position in a firm, such as an officer, director, trustee or employee, or any management position, or as an attorney, agent, broker or consultant to the firm, which does not constitute an ownership interest in the firm.

"Public servant" means all officials, officers and employees of the County, whether paid or unpaid.

"Spouse" means a husband or wife of a public servant who is not legally separated from such public servant.

"Supervisor" means any person having the authority to control or direct the work of a public servant.

"Unemancipated child" means any son, daughter, stepson or stepdaughter who is under the age of eighteen (18), unmarried and living in the household of the public servant.

#### **§ 61-2. Prohibited interests in firms doing business with the County.**

- A. No public servant shall have an ownership interest in a firm which such public servant knows is engaged in business dealings with the department or agency served by such public servant.
- B. No County employee shall have an ownership interest in a firm which such employee knows is engaged in business dealings with the County.
- C. An individual who, prior to becoming a public servant, has an ownership interest which would be prohibited under this section, shall either
  - 1. Divest of the ownership interest; or
  - 2. Terminate the business dealing with the County; or
  - 3. Disclose to the Board such ownership interest and comply with its order.
- D. A public servant who has an ownership interest and did not know of a business dealing which would cause the interest to be prohibited, but has subsequently gained knowledge of such business dealing; or a public servant who holds an ownership interest which, subsequent to the public servant's acquisition of the interest, enters into a business

dealing which would cause the ownership interest to be prohibited; or a public servant, who by operation of law, obtains an ownership interest which would be prohibited shall disclose to the Board such ownership interest. Further, the public servant will, within fifteen (15) days of knowing of the business dealing, either

1. Divest of the ownership interest; or
  2. Terminate the business dealing with the County; or
  3. Ask the Board to determine whether such ownership interest, if maintained, would be in conflict with the proper discharge of the public servant's official duties.
- E. When an individual discloses an ownership interest to the Board pursuant to paragraph (C) of this section, or a public servant requests that the Board make a determination regarding an ownership interest pursuant to paragraph (D), the Board shall issue an order setting forth its determination as to whether or not such interest, if maintained, would be in conflict with the proper discharge of the public servant's official duties. In making such determination, the Board shall take into account the nature of the public servant's duties, the manner in which the interest may be affected by any action of the County, the appearance of conflict and such other factors as the Board deems appropriate. If the Board determines a conflict exists, the Board's order shall require divestiture or such other action as it deems appropriate which may mitigate such conflict.

#### **§ 61-3. Prohibited conduct.**

- A. A public servant who has an interest in a firm which is not prohibited by § 61-2, shall not take any action as a public servant particularly affecting that interest.
- B. No public servant shall engage in any business, transaction or private employment, or have any financial or private interest which is in conflict with the proper discharge of his or her official duties.
- C. No public servant shall use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a personal financial benefit to himself or herself, a person or firm associated with the public servant, a customer or client of the public servant or any person from whom the public servant has received a gift or any goods or services for less than fair market value, during the preceding twelve (12) months.
- D. No public servant shall disclose any confidential information concerning the property, affairs or government of the County which is obtained as a result of the official duties of such public servant and which is not otherwise available to the public or use such information to advance any financial or private interest of the public servant or of any person associated with the public servant; provided, however, that this shall not prohibit any public servant from disclosing information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest.
- E. No public servant shall solicit or accept any gift having a value of seventy-five dollars (\$75) or more, from any person or firm which such public servant knows is or intends to become engaged in business dealings with the County.

- F. No public servant shall receive compensation for performing any official duty except from the County or accept or receive any gift or gratuity from any person or entity whose interests will be affected by the public servant's official action or whose interests have been affected by the public servant's official action.
- G. No public servant shall solicit, accept or receive any gift or gratuity from a lobbyist.
- H. No public servant shall, for compensation, represent private interests before any County agency or appear directly or indirectly on behalf of private interests in matters involving the County. For a public servant who is not a County employee, this prohibition shall apply only to the agency served by the public servant.
- I. No public servant shall appear as attorney or counsel against the interests of the County in any litigation in which the County is a party, or in any action or proceeding in which the County, or any public servant of the County, acting in the course of official duties, is a complainant, provided that this subsection shall not apply to an elected official representing himself or herself, or to a public servant employed by an elected official who appears as attorney or counsel for that elected official, in any litigation, action or proceeding in which the elected official has standing and authority to participate by virtue of his or her capacity as an elected official. This subsection shall not apply to an elected official who represents himself or herself in an election law matter or to a public servant who represents a defendant in a criminal proceeding. For a public servant who is not a County employee, this prohibition shall apply only to the agency served by the public servant.
- J. No public servant shall coerce or attempt to coerce, by intimidation, threats or otherwise, another public servant to engage in political activities or participate in a political campaign. Participation in a political campaign shall include managing or aiding in the management of a campaign, soliciting votes, circulating nominating petitions or canvassing voters for a particular candidate or performing similar acts which are unrelated to the public servant's duties or responsibilities.
- K. No public servant shall compel, induce or request any person to make a monetary or in-kind contribution to any candidate for elected office, committee or political party under threat of prejudice to, or promise of, advantage in rank, compensation or other job-related status.
- L. No public servant shall attempt to influence the course of any proposed legislation in the County Legislature that will affect an interest of the public servant or the interest of a person or firm associated with the public servant without publicly disclosing to the Legislature the nature and extent of the private interest.
- M. No public servant shall give or promise to give any portion of his or her compensation, or any money or valuable thing to any person in consideration of having been nominated, appointed, elected or employed as a public servant.
- N. No public servant shall make personal use of County letterhead, personnel, equipment, supplies or resources.

**§ 61-4. Prohibition on Dual Office-Holding; Other Provisions Relating to Political Party Officials.**

- A. No political party officer shall be eligible to serve as an elected official, department commissioner, assistant district attorney or member of any board, commission, authority, or public benefit corporation whose members are appointed by the County Executive or County Legislature.
- B. No elected official shall hold another paid position of employment with the County or a paid position of employment with any department, office, commission, board or agency of the United States of America, New York State, any town or village government, or public benefit corporation created under the provisions of New York State law. This provision shall not apply to an elected official who also holds a position as a teacher in a public school district or a professor at a public university or college.
- C. A political party officer may represent private interests before a County agency but he or she shall first disclose to the Board the nature and scope of the services to be provided.
- D. No political party officer or firm in which he or she holds an ownership interest shall have business dealings with the County except that a political party officer or his or her firm may receive a contract from the County as a result of a competitive bidding process conducted in accordance with Article 5-A of New York General Municipal Law.

#### **§ 61-5. Exemptions.**

##### **A. This article shall not prohibit:**

- 1. An elected official from appearing without compensation before any County agency on behalf of constituents in the performance of his or her public duties and responsibilities.
- 2. A public servant from accepting or receiving any County benefit which is provided for or made available to residents generally, or a substantial class of residents to which the public servant belongs.
- 3. An elected official from proposing or voting on a measure that will provide a benefit to the elected official, if the benefit will be available to County residents generally or to a substantial class of residents to which the public servant belongs.
- 4. A public servant or public servant's spouse from acting as an attorney, agent, broker, officer, director or consultant for any not-for-profit corporation or other entity which operates on a not-for-profit basis, which has business dealings with the County, provided that such public servant takes no direct or indirect part in such business dealings and that the public servant receives no salary or other compensation for such activities.
- 5. A contract between the County and a public servant for instructing approved Emergency Medical Services training service programs.
- 6. A contract between the County and a public servant for the purpose of providing a foster home for a child under the care of the Suffolk County Department of Social Services, unless the public servant's official responsibilities include approving, authorizing or auditing foster care payments.

7. An elected official from accepting an invitation to, and attending and participating in an event sponsored by a community group or organization.

**§ 61-6. Post-employment restrictions.**

- A. No public servant shall solicit, negotiate for, or accept employment with any firm which is involved in business dealings with the County while such public servant is directly concerned with or personally participating in those business dealings on behalf of the County. This prohibition shall not apply to positions in the federal, state or any local government.
- B. No former public servant shall appear, within a two year period after his or her separation from County service, before the County agency served by such public servant. This prohibition shall not apply to a former public servant who appears before a County agency on behalf of another government entity as an elected representative or employee.
- C. No person who has served as a public servant shall appear before the County, or receive compensation for any services rendered, in relation to any particular matter in which such person had participated personally and substantially as a public servant.
- D. No elected official shall appear before any agency in the branch of County Government served by such elected official within a period of two years after such official's separation from County service. For the purposes of this section, the executive branch consists of all agencies of the County, except the County Legislature. This prohibition shall not apply to a former elected official who appears before a County agency on behalf of another governmental entity as an elected representative or employee.
- E. No public servant shall, after leaving County service, disclose or use for private advantage any confidential information gained from County service which is not otherwise available to the public; however, this shall not prohibit any former public servant from disclosing any information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal conduct or conflict of interest.
- F. No elected official may resign prior to the completion of his or her term of office and be employed by the County in any other position for a period of two years after his or her resignation.
- G. No elected official may resign prior to the completion of his or her term of office and be employed with a certified employee organization which engages in collective bargaining negotiations with the County, for a period of two years after his or her resignation.
- H. No elected official whose term of office has expired may accept employment with a certified employee organization which engages in collective bargaining negotiations with the County, for a period of two years after the expiration of his or her term.
- I. Nothing contained in this section shall prohibit a former public servant from being associated with or having a position in a firm which appears before a County agency or from acting in a ministerial matter regarding business dealings with the County.

**§ 61-7. Recusal and Disclosure.**

- A. A public servant shall promptly recuse himself or herself from acting on any matter when acting on the matter, or failing to act on the matter, would constitute prohibited conduct under the code of ethics or would financially benefit the public servant, a person or firm associated with the public servant, a customer or client or any person from whom the public servant has received a gift, or any goods or services for less than market value in the preceding twelve months.
- B. Whenever a public servant is required to recuse himself or herself under the code of ethics, he or she:
  - 1. shall promptly inform his or her immediate supervisor, if any;
  - 2. shall promptly file with the Board a signed statement disclosing the nature and extent of the conflict; and
  - 3. shall immediately refrain from participating further in the particular matter.

**§ 61-8. Disclosure Involving County contracts.**

- A. Where a public servant has, or acquires, an interest in any actual or proposed contract, purchase agreement, lease agreement or other agreement with the County, the public servant shall disclose the nature and extent of that interest in writing to his or her immediate supervisor and to the Board as soon as he or she has knowledge of the actual or prospective interest.
- B. For the purposes of this section, "interest" means a direct or indirect pecuniary or material benefit accruing to the public servant as a result of a contract with the County. A public servant shall be deemed to have an interest in the contract of:
  - 1. his or her spouse, except as to their spouse's employment agreement with the County;
  - 2. a firm, partnership, or association of which the public servant is a member or employee; and
  - 3. a corporation of which the public servant is an officer, director or employee.

**§ 61-9. Penalties.**

- A. Upon a determination by the Board that a violation of § 61-2 or § 61-3 involving a contract, sale or other transaction, has occurred, the County may elect to void the contract, sale or transaction in question.
- B. Upon a determination by the Board that a violation of § 61-2, § 61-3, § 61-7 or § 61-8 of this Article has occurred, the Board shall have the authority to impose fines up to ten thousand dollars (\$10,000.00) and to recommend to the hiring authority, suspension or removal of the public servant from office or employment.
- C. Any person who knowingly violates § 61-2, § 61-3, § 61-4, § 61-6, § 61-7 or § 61-8 of this Chapter shall be guilty of a misdemeanor and subject to a term of imprisonment not in excess of one year and/or a fine of one thousand dollars (\$1,000).



## **Article II, Financial Disclosure**

### **§ 61-10. Persons Required to File a Financial Disclosure Statement.**

A. Notwithstanding any other provision of law to the contrary, the following public servants and persons shall file with the Board the approved disclosure statement by May 15<sup>th</sup> of each year, unless a different date is provided below, answering each and every question contained in the statement:

1. Elected officials and chairpersons of County political party committees.
2. Each person, who is not otherwise required to file a financial disclosure statement pursuant to this Article, who has declared his or her intention to seek nomination or election and who has filed a petition for the Office of County Executive, District Attorney, Comptroller, Clerk, Treasurer, Sheriff or County Legislature, shall file such statement on or before the last day for filing his or her designating petitions.
3. Each person, who is not otherwise required to file a financial disclosure statement pursuant to this Article, who has been designated to fill a vacancy in a designation or nomination for the Office of County Executive, District Attorney, Comptroller, Clerk, Treasurer, Sheriff or County Legislature shall file such statement within fifteen (15) days after a certificate designating such person to fill such vacancy is filed with the Board of Elections.
4. Each department head, chief deputy department head and deputy department head.
5. Each employee of the County Executive's Office and the County Legislature whose responsibilities include the independent exercise of managerial or policymaking functions, as annually determined by the appointing authority, subject to review by the Board.
6. Each County employee, other than an employee of the County Executive's Office and the County Legislature, who holds a policymaking position as annually determined by the head of his or her agency, subject to review by the Board.
7. Each County employee whose duties at any time during the preceding calendar year involved the negotiation, authorization or approval of leases, franchises, revocable consents, concessions, real estate licenses and contracts, including those involving the sale, rental, or lease of real property.
8. Members appointed to the Suffolk County Planning Commission, the Board of the Suffolk County Off-Track Betting Corporation, the Suffolk County Industrial Development Agency, the Suffolk County Water Authority, and the Board of Trustees of the Department of Parks, Recreation & Conservation.

### **§ 61-11. Procedures for the Filing and Review of Financial Disclosure Statements.**

A. Each agency head shall determine by February 15th of each year, subject to review by the Board, which persons within the agency are required to submit a financial disclosure

statement pursuant to the provisions § 61-10(6) and (7), and shall inform such employees of their obligation to file the statement. All agency heads shall file with the Board, by March 1st each year, a list of persons within their agency obligated to file a financial disclosure statement.

- B. The County Executive and the Presiding Officer of the County Legislature shall determine by February 15th of each year, subject to review by the Board, which persons within their respective offices are required to submit a financial disclosure statement pursuant to the provisions of § 61-10(5). The County Executive and the Presiding Officer shall file with the Board, by March 1st each year, a list of persons within their offices obligated to file a financial disclosure statement.
- C. The Board shall promulgate rules establishing procedures whereby a person required to file an annual financial disclosure statement may request an additional period of time within which to file such report, due to justifiable cause or undue hardship. However, in no case, shall the Board's rules authorize the filing of a statement later than September 1st in any year.
- D. Any amendments and changes to a financial disclosure statement made after its filing shall be made on a separate form to be provided by the Board and attached to the statement.
- E. The Board may establish rules and procedures for the electronic filing of financial disclosure statements.

#### **§ 61-12. Content and Form of Statement.**

- A. The financial disclosure statement filed in any given year shall provide financial information for the preceding calendar year.
- B. The statement set forth in the Exhibit "A", attached hereto and made a part of this law, shall be the approved financial disclosure statement for the County of Suffolk. Notwithstanding any other provision of law to the contrary, each person subject to financial disclosure requirements pursuant to § 61-10, shall file this approved financial disclosure statement, except that the members of the Suffolk County Planning Commission and the Suffolk County Parks Trustees shall complete the statement set forth in Exhibit "B", which is attached hereto and made a part of this law.

#### **§ 61-13. Review of the Statement.**

The Board or its staff will review each financial disclosure statement filed with it to determine if there has been compliance with this Article governing financial disclosure.

#### **§ 61-14. Public Inspection of Statements.**

- A. Information filed in financial disclosure statements required by this Article, shall be maintained by the Board and shall be made available for public inspection, upon written request on such form as the Board shall prescribe. The Board shall respond to requests for inspection of financial disclosure statements in the order that they are received and within the time periods prescribed by New York's Freedom of Information Law.

- B. Any person required to file a statement may, at the time the statement is filed, submit a request to the Board, in such form as the Board shall require, to withhold any item disclosed therein on the ground that the inspection of such item by the public would constitute an unwarranted invasion of his or her privacy or a risk to the safety or security of any person. The Board shall evaluate such request and any such item shall be withheld from public inspection upon a finding by the Board that the inspection of such item by the public would constitute an unwarranted invasion of privacy or a risk to the safety or security of any person. The Board shall provide a written notification of the Board's determination to the person who requested that information be withheld from public inspection in a timely manner, and shall not release the information subject to the request until at least ten days after mailing such notification.
- C. Whenever the Board produces a financial disclosure statement for public inspection, the Board shall notify the person who filed the report of the production and of the identity of the person to whom such statement was produced.
- D. Categories of value shall be confidential and this information will be redacted by the Board before a financial disclosure statement is made available for public inspection.

#### **§ 61-15. Retention of Records.**

Statements filed pursuant to this law and other records of the Board shall be retained and disposed of in accordance with the Records Retention and Disposal Schedule issued pursuant to Article 57-A of the New York Arts and Cultural Affairs Law.

#### **§ 61-16. Penalties.**

- A. Any person required to file a statement pursuant to this Article who has not so filed at the end of one week after the required filing date shall be subject to a fine of not less than two hundred and fifty dollars (\$250) or more than one thousand dollars (\$1,000). In determining the amount of the fine, the Board shall consider factors, including but not limited to, the person's failure in prior years to file a report in a timely manner, and the length of the delay in filing. The Board may waive a fine entirely if a person establishes that the failure to file a report in a timely manner was due to illness, injury or other hardship.
- B. If any County employee subject to financial disclosure requirements fails to file a statement as required by this Article, the Board shall notify the employee's supervisor and the County Comptroller of such failure. Upon such notification, the Comptroller shall withhold the paychecks of said employee.
- C. Any intentional violation of this Article, including but not limited to failure to file, failure to include assets or liabilities, and misstatement of assets or liabilities, shall constitute a misdemeanor punishable by imprisonment for not more than one year or by a fine not to exceed one thousand dollars (\$1,000) or both, and shall constitute misconduct and be grounds for disciplinary action, including removal from employment in the manner provided by law.

### **Section 3. Applicability.**

This law shall apply to actions occurring on or after the effective date of this law.

#### **Section 4. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

#### **Section 5. SEQRA Determination.**

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

#### **Section 6. Effective Date.**

This law shall take effect ninety (90) days after its filing in the Office of the Secretary of State.

DATED: October 11, 2011

EFFECTIVE PURSUANT TO SECTION 2-15(D) OF THE SUFFOLK COUNTY CHARTER,  
RETURNED BY THE COUNTY EXECUTIVE UNSIGNED NOVEMBER 14, 2011

After a public hearing duly held on October 25, 2011  
Filed with the Secretary of State on December 28, 2011